

106TH CONGRESS  
2D SESSION

# H. R. 5433

To permit expungement of records of certain nonviolent criminal offenses.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2000

Mr. RANGEL introduced the following bill; which was referred to the  
Committee on the Judiciary

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## A BILL

To permit expungement of records of certain nonviolent  
criminal offenses.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Second Chance for Ex-  
5       Offenders Act of 2000”.

6       **SEC. 2. EXPUNGEMENT OF CRIMINAL RECORDS FOR CER-**  
7       **TAIN NONVIOLENT OFFENDERS.**

8       (a) IN GENERAL.—Chapter 229 of title 18, United  
9       States Code, is amended by inserting after subchapter C  
10      the following new subchapter:

## 1           **“SUBCHAPTER D—EXPUNGEMENT**

“Sec.

“3631. Expungement of certain criminal records.

“3632. Requirements for expungement.

“3633. Procedure for expungement.

“3634. Effect of expungement.

“3635. Reversal of expunged records.

“3636. Unsealing of records.

### 2           **“§ 3631. Expungement of certain criminal records**

3           “(a) IN GENERAL.—Any individual convicted of a  
4 nonviolent criminal offense in a United States court who  
5 fulfills the requirements of section 3632 may file a petition  
6 under this subchapter to expunge the record of such con-  
7 viction.

8           “(b) DEFINITION OF NONVIOLENT CRIMINAL OF-  
9 FENSE.—In this subchapter, the term ‘nonviolent criminal  
10 offense’ means a misdemeanor or felony that does not have  
11 as an element of the offense the use of a weapon or vio-  
12 lence in its commission and which did not actually involve  
13 violence in its commission.

### 14          **“§ 3632. Requirements for expungement**

15          “No individual shall be eligible for expungement  
16 under this subchapter unless, prior to filing a petition  
17 under this subchapter, such individual—

18               “(1) has never been convicted of a violent mis-  
19 demeanor or felony;

20               “(2) has remained free from dependency on or  
21 abuse of alcohol or a controlled substance for at  
22 least one year;

1           “(3) has obtained a high school diploma or  
2           completed a high school equivalency program; and

3           “(4) has completed at least one year of commu-  
4           nity service, as determined by the court referred to  
5           in section 3633(a).

6   **“§ 3633. Procedure for expungement**

7           “(a) PETITION.—An individual meeting the require-  
8           ments of section 3632 may file a petition under this sub-  
9           chapter with the Attorney General to expunge the record  
10          of a conviction for a nonviolent criminal offense. Not later  
11          than 60 days after receipt of such a petition, the Attorney  
12          General shall submit such petition with a recommendation  
13          regarding expungement to the United States district court  
14          for the district in which the conviction was obtained. The  
15          Attorney General shall notify the petitioner of his rec-  
16          ommendation within such 60-day period. If the Attorney  
17          General recommends expungement, the court shall grant  
18          an order expunging the records that are the subject to  
19          the petition.

20          “(b) APPEAL.—If the Attorney General does not rec-  
21          ommend expungement of the records, the petitioner may,  
22          not later than 90 days after receiving notification from  
23          the Attorney General of such recommendation, appeal  
24          such denial in the United States district court for the dis-  
25          trict in which the conviction was obtained.

1 **“§ 3634. Effect of expungement**

2       “(a) IN GENERAL.—An order granting expungement  
3 under this subchapter shall restore the individual con-  
4 cerned, in the contemplation of the law, to the status such  
5 individual occupied before the arrest or institution of  
6 criminal proceedings for the crime that was the subject  
7 of the expungement.

8       “(b) NO DISQUALIFICATION; STATEMENTS.—After  
9 an order granting expungement of any individual’s crimi-  
10 nal records under this subchapter, such individual shall  
11 not be required to divulge information pertaining to the  
12 expunged conviction and the fact that such individual has  
13 been convicted of the criminal offense concerned shall  
14 not—

15               “(1) operate as a disqualification of such indi-  
16 vidual to pursue or engage in any lawful activity, oc-  
17 cupation, profession, and

18               “(2) held under any provision of law guilty of  
19 perjury, false answering, or making a false state-  
20 ment by reason of his failure to recite or acknowl-  
21 edge such arrest or institution of criminal pro-  
22 ceedings, or results thereof, in response to an in-  
23 quiry made of him for any purpose.

24       “(c) RECORDS EXPUNGED OR SEALED.—Upon order  
25 of expungement, all official law enforcement and court  
26 records, including all references to such person’s arrest for

1 the offense, the institution of criminal proceedings against  
2 him, and the results thereof, except publicly available  
3 court opinions or briefs on appeal, shall be expunged (in  
4 the case of nontangible records) or gathered together and  
5 sealed (in the case of tangible records).

6 “(d) RECORD OF DISPOSITION TO BE RETAINED.—  
7 A nonpublic record of a disposition or conviction that is  
8 the subject of an expungement order shall be retained only  
9 by the Department of Justice solely for the purpose of use  
10 by the courts in any subsequent adjudication.

11 **“§ 3635. Disclosure of expunged records**

12 “(a) LAW ENFORCEMENT PURPOSES.—The Depart-  
13 ment of Justice may release the record of an individual’s  
14 criminal conviction expunged under this subchapter to  
15 Federal or State law enforcement agencies and United  
16 States attorneys and district attorneys—

17 “(1) for the purpose of prosecuting such indi-  
18 vidual for any subsequent criminal offense and adju-  
19 dicating such case; or

20 “(2) if such individual has made an application  
21 for employment as a law enforcement officer, if such  
22 individual is given notice of the disclosure and an  
23 opportunity to explain the conviction.

24 “(b) PUNISHMENT FOR IMPROPER DISCLOSURE.—  
25 Except as provided in subsection (a), whoever knowingly

1 disseminates information relating to an expunged convic-  
 2 tion, other than the individual whose conviction was ex-  
 3 punged, or to such individual, shall be punished by impris-  
 4 onment for not less than one year and a fine of not more  
 5 than \$10,000 for each offense.

6 **“§ 3636. Reversal of expunged records**

7       “The records expunged under this subchapter shall  
 8 be restored by operation of law as public records and may  
 9 be used in all court proceedings if the individual whose  
 10 conviction was expunged is subsequently convicted of any  
 11 misdemeanor or felony in any court of the United States.”.

12       (b) TECHNICAL AMENDMENT.—The analysis for  
 13 chapter 229 of title 18, United States Code, is amended  
 14 by adding at the end the following item:

**“D.   Expungement ..... 3631”.**

15       (d) EFFECTIVE DATE.—The amendments made by  
 16 this Act shall apply to individuals convicted of an applica-  
 17 ble crime at any time before or after the date of enactment  
 18 of this Act.

